

# OPENNESS PROTOCOL

**FOR FRAMEWORK AND AGREEMENT IN PRINCIPLE NEGOTIATIONS  
AMONG  
THE TSLEIL WAUTUTH NATION  
AND  
HER MAJESTY THE QUEEN IN RIGHT OF CANADA  
AND  
HER MAJESTY THE QUEEN IN RIGHT OF BRITISH COLUMBIA  
( "The Parties" )**

## **1. PURPOSE**

### 1.1

The purpose of this Protocol is to guide the Parties with respect to providing the general public with information relating to the Framework and Agreement-in-Principle negotiations.

### 1.2

Public access to the negotiations shall take into account the need on certain occasions for confidentiality in order to conduct effective negotiations and to protect the integrity of the process.

## **2. PRINCIPLES**

### 2.1

The Parties acknowledge a desire to provide accurate information to the public in order to establish better public understanding, awareness and support to the treaty negotiation process. This will be done through a variety of means which may include the following:

- a. access to Main Table negotiation sessions where the Parties agree;
- b. access to documents as agreed by the Parties;
- c. public information meetings and briefing sessions,
- d. consultation with advisory committees; and
- e. provision of information to the media.

### 2.2

The Parties will endeavour to provide opportunities for the general public to be as informed as possible as to the status of negotiations in an effort to increase public confidence in the process and facilitate support for the approval and implementation of the Treaty.

## 2.3

The Parties will respect the principles of confidentiality outlined in this Protocol.

## 3. CONSULTATION

### 3.1

Each Party retains the right to consult with its respective advisory committees.

### 3.2

The Parties agree that to assist the advisory committees in providing advice on the items under negotiations, each of the Chief Negotiators may provide its advisory committees information on the substance of the issues being negotiated and documents, prior to initialling, that have been substantively agreed to by the Chief Negotiators.

### 3.3

The Parties acknowledge the importance of:

- a. A strong, and positive relationship between the Tsleil Waututh Nation, and the municipalities and regional districts within the Tsleil Waututh traditional territory and the Lower Mainland Treaty Advisory Committee ("LMTAC") and recognize the need to begin to define and to formalize that relationship during the treaty process; and
- b. An exchange of accurate information between the Tsleil Waututh Nation, Canada, British Columbia, LMTAC and a representative of LMTAC ("TAC representative") concerning treaty related issues.

### 3.4

The Parties acknowledge that British Columbia will include as a member of the British Columbia negotiating team the TAC representative who will participate as an observer at the Main Table negotiations and provide advice on matters directly relating to local government issues. Where appropriate the TAC representative may participate at certain Side Table or Working, Group sessions which have been established by the Chief Negotiators, in order to provide technical advice.

### 3.5

The Parties acknowledge that a representative of the Tsleil Waututh Nation may participate as an observer at certain meetings of the LMTAC and public meetings of its member jurisdictions' municipal councils and regional district boards, commissions and committees ("Local Government Jurisdictions"). Where appropriate, a Tsleil Waututh Nation representative may be invited to participate at in camera meetings of the LMTAC and Local Government Jurisdictions on treaty related matters.

### 3.6

The TAC representative and the Tsleil Waututh representative will lend their support to the principles set forth in section 3.3, the treaty process and the treaty negotiations between the Parties.

### 3.7

The TAC representative will take direction from, and follow the instructions of the Chief Negotiator for British Columbia.

### 3.8

The TAC representative will comply with any and all rules of confidentiality including the provisions in this Protocol, that may be agreed to by Canada, British Columbia and the Tsleil Waututh Nation until the final treaty has been ratified by each Party.

### 3.9

The TAC representative may share with the Lower Mainland TAC all information and documents that have been determined to be public by the Chief Negotiators pursuant to section 7.

### 3.10

The TAC representative may share with the Lower Mainland TAC all information and documents that have not been determined to be public by the Chief Negotiators pursuant to section 7. only where:

#### 3.10.1

it is agreed that the information or document can be reasonably expected to directly affect the local governments represented by the Lower Mainland TAC, and

#### 3.10.2

the Chief Negotiator for British Columbia instructs the TAC representative that the information or document may be disclosed; and

#### 3.10.3

the members of the Lower Mainland TAC and the councils of the local „governments represented by the Lower Mainland TAC agree in advance that they will confine any discussion of the information and documents to in camera sessions of the Lower Mainland TAC and their Local Government Jurisdictions and not otherwise disclose this information or documents.

### 3.11

British Columbia and the LMTAC shall agree in writing to the terms of this Protocol prior to the TAC representative becoming an observer at the Main Table.

## **4. PUBLIC INFORMATION**

### 4.1

The Parties have jointly formed a public information working group (the "Public Information Working Group"). The mandate of the Public Information Working Group is:

- a. to undertake those activities outlined in the Terms of Reference of the Public Information Working Group and the Action Plan as laid out in Schedule One,
- b. to develop an action plan every four months for approval by the Main Table.

#### 4.2

The Parties may participate in bilateral or independent public information activities provided that they are in accordance with the purpose and principles set forth in this Protocol

### **5. PUBLIC ACCESS TO MAIN TABLE NEGOTIATION SESSIONS**

#### 5.1

All Main Table negotiation sessions will be open to the public unless the Chief Negotiators agree to close the negotiation session in whole or in part. The Parties acknowledge that in order for efficient and productive negotiations, there will be times when the negotiations will be closed to the public. Wherever possible, the Chief Negotiators will decide two weeks in advance whether the session will be open or closed, in whole or in part, to the public.

#### 5.2

In deciding whether a Main Table negotiation session will be open or closed to the public, the Chief Negotiators will consider whether attendance at the negotiation sessions by members of the public would:

- a. increase the effectiveness of the negotiation session;
- b. interfere with the effectiveness of the process; or
- c. reasonably be expected to prejudice the positions or strategies of the negotiating parties; or
- d. harm the conduct of negotiations.

#### 5.3

It, during an open Main Table negotiation session, the Chief Negotiators agree that certain matters should be discussed in camera, then that session may be adjourned and resumed as a closed session.

#### 5.4

The Parties agree that members of the public shall be in attendance solely as observers and guidelines for observers will be posted at every open Main Table negotiation session .

#### 5.5

The Parties recognize that it is important for the public to understand the historical, legal and social context of treaty making, therefore, a public briefing may be held with each Main Table negotiation session that is open to the public.

## **6. MEDIA ACCESS**

### **6.1**

Members of the media may attend open Main Table negotiation sessions as observers.

Recording, videotaping and photographing of each open Main Table negotiation session will be allowed upon approval of the Chief Negotiators.

### **6.2**

Following each Main Table negotiation session, the Chief Negotiators may hold a media briefing.

## **7. ACCESS TO DOCUMENTS**

### **7.1**

In this section, the term "document" shall include the following:

- a. correspondence;
- b. discussion papers;
- c. reports,
- d. maps,
- e. records of decisions and commitment;
- f. audio or video recordings;
- g. electronic or facsimile transmissions;
- h. transcriptions;
- i. draft agreements; and
- j. photographs.

### **7.2.**

When any document is provided by one Party to one or both of the other Parties, the Chief Negotiator for the Party producing that document will decide whether the document will be made public or deemed to be confidential.

### 7.3

Where two or more Parties jointly produce a document for the negotiating table, the Chief Negotiators for all Parties will decide by consensus, whether the document will be confidential or made available to the public.

### 7.4

In considering whether or not a document is to remain confidential the Chief Negotiator(s) will consider the following:

- a. whether or not disclosure of the document would prejudice the position or strategy of any of the parties;
- b. whether or not the document is at a stage in the drafting process where it accurately reflects the intentions and interests of that party;
- c. whether or not the document would adversely affect the negotiation process;
- d. whether or not making the document public would disclose information which was provided in confidence to that party;
- e. whether or not the document should be held as confidential only for a limited period of time and, if so, the time at which the document may be made public.

### 7.5

Where a document is deemed to be confidential by one or any of the Parties, it will be noted "confidential" or "in confidence" or similar wording on the document which will constitute advice to any Party receiving the document that it is to be kept confidential.

### 7.6

The Parties agree the following documents will be made public in their final form:

- a. Periodic reports reviewing the progress of negotiations as agreed by all Chief Negotiators;
- b. Main Table agendas, where the negotiation session is open to the public.

### 7.7

Upon agreement signified by initialling by the Chief Negotiators, the following documents will be made available to the public:

- a. The Framework Agreement;

- b. Sub-agreements and,
- c. The Agreement-in-Principle.

## **8. INFORMATION SHARING**

### 8.1.

Recognizing that sharing information is important to the conduct and progress of treaty negotiations, the Chief Negotiator for Canada and the Chief Negotiator for British Columbia will consult with their respective federal and provincial departments or ministries in an effort to promote information sharing with the Tsleil Waututh Nation on the substantive subject matters which the Parties intend to address during their negotiations. Information may be provided to the Tsleil Waututh Nation directly by the particular department or ministry or through their Chief Negotiator. Tsleil Waututh Nation will notify the other Parties if information is obtained directly.

## **9. INFORMATION AND PRIVACY**

### 9.1

This Protocol is subject to the application of access to information and privacy legislation of Canada and British Columbia. If a Chief Negotiator is aware of a written request for information relating to the negotiations, notification of the request will be given to the other Parties.

## **10. AMENDMENTS**

### 10.1

This Protocol may be reviewed and amended by written agreement of the Chief Negotiators.

This Protocol signed the 7th day of February, 1996, in the Province of British Columbia.

SIGNED on behalf of the TSLEIL WAUTUTH NATION,  
Also known as the BURRARD INDIAN BAND BY:

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Chief Leonard George  
Chief Negotiator

SIGNED on behalf of HER MAJESTY IN RIGHT OF CANADA BY:

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Mr. Robin Dodson  
Chief Federal Negotiator

**SIGNED on behalf of HER MAJESTY THE QUEEN IN RIGHT OF THE  
PROVINCE OF BRITISH COLUMBIA BY:**

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**Ms. Linda Jolson  
Chief Provincial Negotiator**